IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 2209 of 2006.
Date of Decision: October 30, 2006.

Ram Niwas Gandhi

....**Petitioner**

through
Mr. D.R.Bansal, Advocate

Versus

Smt. Saya Devi

...**Respondent**

CORAM:

HON'BLE MR. JUSTICE SURYA KANT.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

SURYA KANT,J.(ORAL)

This order shall dispose of Civil Revision No.2209 and 2210 of 2006 as common questions of law and fact are involved therein. The facts have, however, been taken from Civil Revision No.2209 of 2006.

This revision petition is directed by the landlord whose application under Section 4 of the Haryana Urban (Control of Rent & Eviction) Act, 1973, for fixation of fair rent of the demised shop, has been partly allowed by the Rent Controller, Panchkula vide order dated 26.10.2005 and it has been further affirmed by the Appellate Authority vide its impugned judgment and order dated 14.2.2006.

Shorn of details, the respondent is in occupation of a shop as a tenant under the petitioner. Alleging that the respondent had agreed to pay monthly rent @ Rs.500/- w.e.f. 1.9.1995 but tendered rent at a lower rate of

Rs.315/- per month without any rhyme and reason and that the prevailing rate of rent of the shop in question is not less than Rs.800-900/- per month, this application under Section 4 of the Act was moved.

The respondent contested the petition and asserted that the agreed rent of the shop was Rs.315/- per month and the rent was accordingly tendered at the aforesaid rate.

The only issue to be determined by the learned Rent Controller as well as the Appellate Authority was as to whether the premises in question was rented out to the respondent @ Rs.500/- per month or Rs.315/- per month. While answering this question in favour of the respondent-tenant, both the courts have held that the petitioner-landlord had failed to produce any rent note regarding the rate of rent being Rs.500/- per month. Similarly, no receipt or any other document has been produced by him which could indicate that the premises was rented out to the respondent at the aforesaid rent. On the other hand, the respondent-tenant produced a certified copy of the judgment dated 31.7.2001 passed by learned Additional District Judge, Panchkula in Civil Appeal No.93 of 2000 in which the rate of rent between the parties was fixed @ Rs.315/- per month. The story put forth by the petitioner-landlord that the respondent had agreed to pay rent @ Rs.500/- per month in the year 1995, thus, stood falsified from the afore-stated unrebutted documentary evidence. In this view of the mater, the Courts below have taken Rs. 315/- as the basic rent of the premises in dispute and the rent has been increased to Rs.369/- per month.

Aggrieved, the petitioner has filed this revision petition.

I have heard Mr. D.R.Bansal, learned counsel for the petitioner at length and have perused the impugned orders. There is no denial to the

fact that if the basic rent is taken @ Rs.315/- per month, no procedural fault has been committed by the Courts below in determining the fair rent @ Rs.369/- per month. Learned counsel for the petitioner, however, refers to some oral evidence to contend that at one point of time, the respondent had agreed to increase the rent @ Rs.500/- per month. The aforesaid argument can not be accepted for more than one reasons. Firstly, both the courts below have concurrently held that since the year 2001, the monthly rent of the premises was Rs.315/- per month, secondly, there is already adjudication of the issue between the parties vide judgment dated 31.7.2001 passed by learned Additional District Judge, Panchkula in Civil Appeal No.93 of 200. The petitioner can not be permitted to go beyond what has been held in the judgment *inter-se* parties. Thirdly, the oral evidence sought to be relied upon by the petitioner does not inspire confidence, especially when reappraisal thereof is sought from this revisional court in order to form a view contrary to that of the courts below.

Consequently, I find no merit in these revision petitions and the same are dismissed.

October 30, 2006. **(SURYA KANT)**
dinesh **JUDGE**